HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is not approved for reporting.)

(Chapter VIII Rule 32 (2) (b)

Description of the case

W.P. No. 90 of 2003 (S/S)
Satish Chandra Pant

Vs.
Union of India & others.

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 27.05.2004

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 90 of 2003 (SS)

Satish Chandra Pant ..... Petitioners

Versus

Union of India & others ..... Respondents

Sri N.S. Negi, Advocate for the petitioner
Standing Counsel (Central) for the respondents.

Dated: 27.5.2004

Hon'ble Rajesh Tandon J.

Heard Sri N.S. Negi learned counsel for the petitioner and Sri Prakash Bisht learned Standing counsel (Central) for the respondents.

By the present writ petition the petitioner has prayed for the issue of a writ in the nature of certiorari quashing the order dated 28.1.2003.

Briefly stated the facts giving rise to the present writ petition are that the petitioner appeared before the selection committee on 21.9.2002 and necessary certificates were submitted before the selection committee. The physical tests of the petitioner was conducted on 22.6.2002 and the petitioner qualified the physical test. Thereafter the petitioner appeared in the written test on 27.9.2002. The medical authorities at Pithoragarh conducted the medical test of the petitioner and the petitioner was found fit for training in Assam Rifles. On 14.11.2002 the respondent no. 2 Assam Rifles Dimapur issued

appointment letter to the petitioner. In compliance of appointment letter the petitioner submitted his joining on 8.12.2002 before respondent no. 3 Commandant Assam Rifle Training Centre and School, Dimapur. On 13.12.2002, respondent no. 3 asked the petitioner to appear for the medical test in Assam Rifles' Hospital, Dimapur. The Doctor concerned could not ascertain any disease but he was in doubt that the petitioner was suffering from *Tachycalpdia with cardiac murmur.* The petitioner was directed to carry out treatment of the aforesaid deceased from a hospital at his own expenses and for this 42 days time was granted to the petitioner.

The petitioner has submitted that he is not suffering from any disease as he was found fit earlier on medical examination. However on 17.12.2002 the petitioner took advise of the cardiologist of Medical College, Agra who found no such disease. The Cardiologist referred the petitioner to All India Institute of Medical Science, New Delhi for necessary medical tests. On 7.1.2003 the petitioner registered himself in All India Institute of Medical Science, New Delhi and after conducting medical tests the doctors issued certificate to the effect that no evidence has been shown of structural heart disease in the body of the petitioner. The petitioner has stated that he has submitted certificate and all other papers issued by AIIMS, New Delhi to respondent no. 3 on 16.1.2003. On 18.1.2003 the petitioner was asked to appear before the doctor in Army Hospital, Ranga Paras, Assam. The petitioner appeared before the doctor and thereafter he continuously attended his duty.

The grievance of the petitioner is that without passing any order of termination, the respondent no. 3 on 28.1.2003 directed the petitioner to left the unit and go to home as he was

not found medically fit. The petitioner has stated that the respondent no. 3 has passed only oral order of termination. The petitioner has submitted that he having been duly selected by the competent authority but his services were terminated without any order and further without supplying copy of medical report and as such the petitioner has challenged the order of oral termination.

Grievance of the petitioner appears to be genuine in as much as no order of termination in writing has been passed. As will appear from the medical report of the Cardiologist dated 17.12.2002 at AIIMS, New Delhi, the petitioner was found medically fit and Dr. R. Narang, Associate Prof. Of Cardiology has issued certificate on 10.1.2003 to the following effect:

"This is to certify that Mr. Satish Chander Pant is being followed up in the cardiac clinic of this hospital vide CV No. 283/03. Evaluation including echocardiography has not shown any evidence of structural heart disease."

The petitioner submitted all papers regarding medical tests to the respondent no.3 who without perusal of medical papers, passed oral order of termination.

The petitioner was duly selected by selection committee on 21.09.2002 and thereafter conducting physical test on 22.9.2002. The petitioner also qualified written test held on 27.9.2002 and after medical examination appointment letter was issued to him. There is no occasion to terminate the services of the petitioner without appraising him the order passed by the medical board.

The writ petition is disposed of with the direction to respondents no. 2 and 3 to consider the entire medical reports of

the petitioner and thereafter pass a reasoned order within one month after the receipt of the certified copy of this order.

No order as to costs.

Sd/-

27.5.2004
*Dhyani